

IN THE CHANCERY COURT FOR LOUDON COUNTY, TENNESSEE
NINTH JUDICIAL DISTRICT AT LOUDON

STATE OF TENNESSEE, *ex.rel.* PAUL G.
SUMMERS, Attorney General & Reporter,
Plaintiff,

v.

KIMBERLY H. COOK, individually and doing
and doing businessbusiness as LEGAL SERVICES OF EAST
TENNESSEE, and LEGAL SERVICES OF
EAST TENNESSEE, INC., a Tennessee
corporation,

Defendants.

MOTION FOR TEMPORARY INJUNCTION

The State of Tennessee, by and through the Attorney General and Reporter, Paul G. Summers, on behalf of and at the request of Mark Williams, the Director of the Division of Consumer Affairs of the Department of Commerce and Insurance, moves this Honorable Court, pursuant to Tenn. Code Ann. § 47-18-108(a) of the Tennessee Consumer Protection Act of 1977, Tenn. Code Ann. § 47-18-101, *et seq.* ("TCPA") and the Unauthorized Practice and Improper Conduct statute, Tenn. Code Ann. § 23-3-101, *et seq.* ("unauthorized practice of law statute" or "UPL statute"), for a Temporary Injunction.

The Plaintiff submits that it is highly likely that the State will succeed on the merits of this action in showing that Defendants have violated the unauthorized practice of law statute and the TCPA, through Defendants' conduct as detailed in the State's Motion and Complaint. Furthermore, the State submits that the public equities advanced by the State outweigh the private equities of the Defendants, and therefore, a Temporary Injunction should issue.

The State of Tennessee moves for an injunction enjoining the Defendants, Kimberly H. Cook,

individually and doing business as Legal Services of East Tennessee and Legal Services of East Tennessee, Inc. and their employees, agents, successors and assigns, and other persons in active concert or participation with the Defendants who receive actual notice of this Temporary Injunction, from engaging, directly or indirectly, in the following conduct:

- (1) Defendants shall not engage in the practice of law or law business in the State of Tennessee;
- (2) Defendants shall not engage in any act or practice that violates Tenn. Code Ann. §§ 23-3-101, *et seq.* relating to the unauthorized practice of law;
- (3) Defendants shall not engage in any unfair or deceptive acts or practices in the conduct of their business and shall fully comply with all applicable provisions of the Tennessee Consumer Protection Act of 1977, Tenn. Code Ann. §§ 47-18-101, *et seq.*;
- (4) Defendant Kimberly Cook shall not, directly or indirectly, represent, state, promote, advertise, claim or imply that she can provide "legal services" such as, but not limited to, "divorces," "name changes," "wills," "powers of attorney," "affidavits," "eviction notices," "criminal injuries compensation claims," "Equal Employment Opportunity Commission complaints," "Tennessee Human Rights Commission complaints," "worker's compensation," "deeds" or other services, if Kimberly Cook does not possess a valid license to practice law in the State of Tennessee at the time of offering and providing the services;
- (5) Defendant Legal Services of East Tennessee, Inc. shall not, directly or indirectly, represent, state, promote, advertise, claim or imply that it can provide "legal services" such as, but not limited to, "divorces," "name changes," "wills," "powers of attorney," "affidavits," "eviction notices," "criminal injuries compensation claims," "Equal Employment Opportunity Commission complaints," "Tennessee Human Rights Commission complaints," "worker's compensation," "deeds," or other services, unless the Defendant employs an attorney who possesses a valid license to practice law in the State of Tennessee to supervise the offering and providing of these services;
- (6) Without limiting the scope of paragraphs 1, 2 and 4, Defendants shall not, directly or indirectly, use the name "Legal Services of East Tennessee" or use any term or phrase of similar import when referring to their business. Without limiting the scope of this provision, Defendants will immediately cease using the name "Legal Services of East Tennessee" and destroy any letterhead, forms, business cards or other documents that use or refer to this name;
- (7) Without limiting the scope of paragraphs 1 and 2, Defendants shall not act as advocates in a representative capacity for any consumer or person or make or prepare any documents for filing in any court in the State of Tennessee on behalf of any person or business, except as Defendant Kimberly Cook may lawfully represent herself;
- (8) Without limiting the scope of paragraphs 1 and 2, Defendants shall not accept or deposit into their accounts any monies or other valuable consideration from any person for legal document preparation

services performed by Defendants. Defendants shall immediately provide any such monies or other valuable consideration received under fee agreements entered into before the entry of this Order to any attorney appointed pursuant to section III of this Order or if an attorney has not been appointed, it shall be provided to the Clerk of the Chancery Court of Loudon County who shall retain said sums in escrow pending further orders of this Court;

(9) Defendants have represented that they are removing all assets from the business premises to a secure area. Defendants will provide a list to the Office of the Attorney General of all assets removed from the premises. Defendants have represented that the business checking account totaled twelve dollars and thirty-one cents (\$12.31) as of April 30, 1999. Defendants have indicated the account will be closed because maintenance of the account will be more than the current balance. On the day of entry of this Order, Defendants shall provide the Court with an accounting of all assets received for providing legal document preparation services, a list of all bank accounts into which money received for those services was deposited and the amount currently held in each bank account;

(10) Defendants shall be prohibited from, directly or indirectly, using terms or phrases such as "legal," "law," "legal services," "representation in court by a staff attorney is available for additional fee" or "Not certified as a Civil Trial Specialist by the Tennessee Commission on Continuing Legal Education and Specialization" that would indicate to consumers that the Defendants are providing legal services or acting as advocates in a representative capacity for any consumer or person, unless Defendant Kimberly Cook is an attorney licensed by the State of Tennessee or unless Defendants employ an attorney who possesses a valid license to practice law in the State of Tennessee to supervise the offering and providing of these services; and

(11) Defendants shall be required to maintain all documents and records relating to (a) any appearance they made as an advocate in a representative capacity for any consumer or person; (b) any advice or counseling they gave to any consumer or person regarding the law; (c) any document or instrument they prepared for any consumer or person relating to any Tennessee law; (d) any financial records or documents relating to the operation of Legal Services of East Tennessee; and (e) any documents reflecting the names, addresses and amounts paid for any services provided by the Defendants. Defendants shall be prohibited from, directly or indirectly, destroying or removing such records.

Further, the State of Tennessee requests that this Honorable Court issue such other orders as may be necessary and proper to protect the consumers and other persons of this State from Defendants' unlawful activities, including but not limited to, the appointment of an attorney with the same powers as those set forth in Rule 9, Section 22 of the Rules of the Supreme Court of Tennessee relating to the Appointment of Counsel to Protect Clients' Interest, an Order requiring that Defendants provide access to all files and records to any attorney so appointed by this Court, an Order requiring the Defendants to provide notice to their clients, courts and others of their unlawful conduct, and an Order protecting the confidentiality of any documents created or used during Defendants' relationship with the consumer in providing legal services.

The State's Motion should be granted because the Defendants have engaged in violations of the

unauthorized practice of law statute and in unfair or deceptive acts or practices in violation of TCPA. In support of this Motion, the State relies upon the attached Complaint filed against the Defendant and this Motion for Temporary Injunction.

THIS IS THE STATE'S FIRST REQUEST FOR EXTRAORDINARY RELIEF.